IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 24426 of 2007(G)

PETITIONER:

ANTONY C.J., AGED 36 YEARS,
S/O.P.M.JOHN, RESIDING AT AISWARYA NIVAS,
CMC, 22, CHERTHALA, ALAPPUZHA DISTRICT.

BY ADV. SRI.K.N.CHANDRABABU

RESPONDENTS:

1. **THE STATE OF KERALA,**
   DEPARTMENT OF COMMERCIAL TAX,
   REP. BY THE SECRETARY, GOVT.SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE KERALA PUBLIC SERVICE COMMISSION,**
   O/O THE PSC, PATTOM, THIRUVANANTHAPURAM.

3. **THE INDIRA GANDHI NATIONAL OPEN**
   UNIVERSITY (IGNOU) MAIDAN GARHI,
   NEW DELHI - 110 068, HAVING REGIONAL CENTRE
   AT KALOOR P.O., COCHIN-17, REP. BY ITS REGISTRAR.

4. **THE UNIVERSITY OF KERALA,**
   THIRUVANANTHAPURAM.
   REP. BY ITS REGISTRAR.

***ADDL.R5. S. HARI KUMAR,**
S/O. N. SREEDHARAN NAIR, AGED 40 YEARS,
RESIDING AT CHELAKKADU HOUSE,
POST KEEZHATTINGAL (VIA), ATINGAL,
TRIVANDRUM DISTRICT - 695 101.

W.P.(C). NO.24426/2007:

***ADDL.R6. M.C. AGASTHIKUTTY,**
S/O. M.V. CHACKO, AGED 37 YEARS,
MULACKANPILLY HOUSE, P.O. KEEZHOOR,
THRISSUR DISTRICT - 680 734.

***ARE IMPLEADED AS ADDITIONAL RESPONDENTS AS PER ORDER DATED 01/12/2007 IN I.A. 15897/2007.**

BY GOVT. PLEADER SRI. P. NANDAKUMAR,
R4 BY SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.,
ADDL. R5 & R6 BY ADV. SRI. V.A. MUHAMMED.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007,ALONG WITH W.P.(C). NOS. 28752/2007, 24678/2007 & 25401/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) Nos.24426, 24678, 25401 and 28752 of 2007

Dated this the 7th December, 2007

J U D G M E N T

Common issues arise for consideration in these cases and therefore they are being disposed of by a common judgment. Affidavits and additional affidavits have been filed by P.S.C in one of the writ petitions and they have been adopted in other writ petitions also. In the circumstances, by consent of the parties, writ petitions have been taken up for hearing and have been heard together. Writ Petition No.25401 of 2007 is taken as the leading case.

2. Public Service Commission issued a notification inviting applications for the post of Sales Tax Officer in the Commercial Taxes Department. In Exhibit-P2 notification, one of the qualifications prescribed is Master's Degree in Business Administration (Finance). Petitioner claims that she possesses an M.B.A in Finance from the Kerala University. Exhibit-P1 is the Degree Certificate which shows that the petitioner has been awarded the Degree of Master of Business Administration in First Class. The petitioner was interviewed and subsequently Exhibit-P5 memo was issued requiring the petitioner to produce

the certificates showing the acquisition of a Degree in Master of Business Administration (Finance). Petitioner produced Exhibit-P6 certificate from the University. Exhibit-P6 certifies that the petitioner has passed M.B.A, (Master of Business Administration) Degree examination with 'Finance' as the elective subject. Exhibit-P6 was produced before the PSC but the petitioner was not included in the list on the premise that the petitioner has not produced the certificate evidencing that the Degree in Master of Business Administration is in Finance. Exhibit-P7 rejection memo has been challenged in the writ petition.

3. In the additional affidavit filed by the P.S.C, the stand taken is that the certificates produced by the candidates concerned do not mention the subject of specialisation. Thus those candidates with such MBA certificates which do not mention the subject of speciliasation as finance were not included in the ranked list where the certificates do not show the area of specialisation, they have not been accepted. In the case of the petitioner, apparently, on verification of documents, it

could not be found by the P.S.C. that the petitioner possesses M.B.A, with Finance as the specialisation. Hence the rejection memo.

4. In the case of W.P. (C) 24426 of 2007, petitioner has passed MBA from the Indira Gandhi National Open University. The certificate shows that the candidate has acquired the Degree of Master of Business Administration. Exhibit-P3 which is the Grade Card Management Programmes shows that the petitioner has successfully completed M.B.A with Finance Management as the specialisation. When the PSC wanted a certificate evidencing MBA in Finance, Exhibit-P6 issued by the Indira Gandhi National Open University, Regional Centre, Kaloor was produced to show that the Master of Business Administration is with specialisation in Financial Management. Exhibit-P7 Eligibility Certificate from the Kerala University certified that the M.B.A Degree Examination from the Indira Gandhi National Open University is equivalent to the M.B.A Degree of the Kerala University. Similar are the facts involved in W.P (C) No.28752 of 2007.

5. I have already noted the stand taken by the P.S.C in the additional affidavit. They have also referred to Exhibit-R3 (a) certificate produced by one of the applicants. The same shows that the candidate concerned has passed the M.B.A Degree Examination with Finance (Branch-I) as elective subject.

6. Learned counsel for the petitioners submit that in their cases, Financial Management is the elective subject. In other words they have taken M.B.A with Finance as subject of specialization. This is therefore, part of the prescribed qualification.

7. After having heard the contentions of the parties, having perused the certificates produced by the petitioners in these cases and having taken note of Exhibit-R3 (a) produced by the P.S.C., I am of the view that petitioners' case should be reconsidered by the PSC. There is prima facie material to show that the petitioner has passed M.B.A Degree Examination with Finance either as elective or area of specialisation. An elective in the circumstance would mean the same as specialisation. If Finance or Financial Management is only one of the areas of

specialisation then it may not be possible for the holder of the Degree to say that he has acquired the Degree in Master of Business Administration (Finance). But if the only area of specialisation or the main elective is Finance or Financial Management then the holder of the Degree is legitimately entitled to claim that he is a holder of M.B.A (Finance). These are the materials to be considered by the P.S.C.

8. In the result, the writ petitions are allowed in part. The PSC is directed to reconsider the case of the petitioners in the light of the observations made above untrammelled by the rejection memo. A person included in the rank list has got himself impleaded in W.P. (C).25401 of 2007. According to him, the petitioner is not qualified in terms of the observations made above, he also has a grievance that none of the persons included in the rank list are made parties in the writ petitions. In circumstances where I am only directing the petitioners case to be reconsidered by the P.S.C. Therefore, it is not necessary to consider the contentions of the impleaded respondent. At any rate, the impleaded respondent is a stranger, in so far as the

eligibility of the petitioners' is concerned. In my view since there is no challenge to the rank list and in the nature of the limited relief prayed for in the writ petition, there is no fatal defect to the writ petition by the non-impleadment of the persons in the rank list.

I make it clear that in the event of the petitioners' claim being accepted by the P.S.C. on reconsideration, it should be ensured that the advice already effected from the rank list should not be disturbed. The petitioners claim shall be reconsidered and fresh orders shall be passed within three months from the date of receipt of a copy of this judgment. Further advice from the rank list may be kept in abeyance till the P.S.C. takes a decision in the manner aforementioned.

The case of the petitioner in W.P (C) No.24678/2007 deserves to be considered separately. Petitioner is the holder of a Degree in Master of Business Administration from Bharatiyar University. Exhibit P8 is the certificate issued by the university showing that petitioner has studied Finance as elective for his M.B.A Degree course. Exhibit P2 mark list

further shows that the petitioner has acquired the degree with the following subjects as elective (i)Corporate Finance (ii) Security Analysis and Portfolio management (iii) Working Capital Management, (iv) Modern Banking and Financial Series. On a perusal of Exhibit 9 (a) & (b), I am of the view that petitioner cannot claim that he had acquired degree in Master of Business Administration with Finance as sole elective subject. Petitioner's case stands on a different footing from the one considered above. In my view the PSC has not committed any error in coming to the conclusion that the petitioner is not qualified. In view of the above, the writ petition is bereft of merit and the same is therefore, dismissed.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007